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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120815345-3525-02]

RIN 0648-XF046

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Re-opening of Recreational Sector for the South Atlantic Other
Jacks Complex**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; re-opening.

SUMMARY: NMFS announces the re-opening of the recreational sector for the other jacks complex (lesser amberjack, almaco jack, and banded rudderfish) in the exclusive economic zone (EEZ) of the South Atlantic through this temporary rule. The most recent recreational landings of the other jacks complex indicate that the recreational annual catch limit (ACL) for 2016 fishing year has not yet been reached. Therefore, NMFS re-opens the recreational sector for the other jacks complex in the South Atlantic EEZ through the end of the 2016 fishing year or until the ACL is reached, whichever happens first, to allow the

recreational ACL to be caught, while minimizing the risk of the recreational ACL being exceeded.

DATES: This rule is effective 12:01 a.m., local time, [*insert date of publication in the Federal Register*], until 12:01 a.m., local time, January 1, 2017.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727-824-5305, email: *mary.vara@noaa.gov*.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes the other jacks complex which is composed of lesser amberjack, almaco jack, and banded rudderfish and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The recreational ACL for other jacks complex in the South Atlantic is 267,799 lb (121,472 kg), round weight. Under 50 CFR 622.193(1)(2)(i), NMFS is required to close the recreational sector for the other jacks complex when landings reach, or are projected to reach, the recreational ACL by filing a

notification to that effect with the Office of the Federal Register.

NMFS previously projected that the recreational ACL for the South Atlantic other jacks complex for the 2016 fishing year would be reached by August 9, 2016. Accordingly, NMFS published a temporary rule in the **Federal Register** to implement accountability measures (AMs) to close the recreational sector for the other jacks complex in the South Atlantic EEZ effective from August 9, 2016, until the start of the 2017 fishing year on January 1, 2017 (81 FR 52366, August 8, 2016).

However, the most recent landings data for the other jacks complex now indicate the recreational ACL has not been reached. Consequently, and in accordance with 50 CFR 622.8(c), NMFS temporarily re-opens the recreational sector for the other jacks complex on [*insert date of publication in the Federal Register*]. The recreational sector will remain open through the remainder of 2016 fishing year or until the recreational ACL is reached, whichever happens first. Re-opening the recreational sector allows for an additional opportunity to recreationally harvest the other jacks complex while minimizing the risk of the recreational ACL being exceeded.

Classification

The Regional Administrator, NMFS Southeast Region, has determined this temporary rule is necessary for the conservation and management of the other jacks complex and the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.8(c) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA), finds that the need to immediately implement this action to temporarily re-open the recreational sector for the other jacks complex constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b) (B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the recreational ACL and AMs has been subject to notice and comment, and all that remains is to notify the public of the re-opening. Such procedures are contrary to the public

interest because of the need to immediately implement this action to allow recreational fishers to harvest the recreational ACL of species of the other jacks complex from the EEZ. Prior notice and opportunity for public comment would require time and would delay the re-opening of the recreational sector.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 28, 2016

Emily H. Menashes,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.